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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,305	10/15/2004	J. Carlos Martinez	2273-0110PUS1	6676
2292	7590	10/04/2006		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER HOLLOWAY III, EDWIN C	
			ART UNIT 2612	PAPER NUMBER

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/511,305

Applicant(s)

MARTINEZ ET AL.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08) ✓  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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**EXAMINER'S RESPONSE**

1. In response to the application filed 10-15-04, the application has been examined. The examiner has considered the presentation of claims in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "among those used" in claim 1 and "previously described" in claim 9 are unclear. Claim 1 should begin with a capital "E" and claim 3 should be in a single sentence with a single period to be in proper format. In claim 6, "y" should be --and-- and "doides" should be --diodes--.

***Claim Rejections - 35 USC § 102 & 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

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Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3-4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Disbrow (UD 5625349) in combination with Chhatwal (US005337588A).

Regarding claims 1, 3-4 and 7-9 Disbrow discloses a lock and key system and method electronic key 12 and lock 10 each including electronic code storage memory for comparison in the lock to control electromechanical means (32). Contacts 54,58 provide activation and power to the key. Data is communicated bidirectionally by infrared LED and phototransistor. The lock includes a port 46 for external communication such as programming. Master code and credit card code are included. See figs. 1-3, 27 and cols. 5-7. Disbrow does not disclose

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plastic housing.

Chhatwal discloses an analogous art lock and key with contacts and LED communication. The lock and key are in plastic housings to prevent damage. See cols. 3-4.

Regarding claims 1, 3-4 and 7-9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Disbrow the plastic housings for the lock and key as disclosed by Chhatwal to prevent damage.

7. Claims 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Disbrow (UD 5625349) and Chhatwal (US005337588A) as applied above and further in view of Gokcebay (US005552777A).

Gokcebay discloses a lock and key with a data port 64 on the key in fig. 7 and cols. 7-10 for external communication including programming.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above the data port of Gokcebay for external programming and/or mode changing.

8. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Disbrow (UD 5625349) and Chhatwal (US005337588A) as applied above and further in view of Warren (US00526637A).

Warren discloses a lock programming port 46 and connection to a personal computer 115 as alternate manners to program the lock. See fig. 3 and col. 9.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above programming by a personal computer as disclosed in Warren as an alternative manner of programming.

9. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Disbrow (UD 5625349) and Chhatwal (US005337588A) as applied above and further in view of Pinnow (US 4573046).

Pinnow discloses locking system with communication by laser LED as an alternative to other forms of LED. See col. 3.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied communication by laser diode as an obvious alternative form of diode for communication in a locking system.

#### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Castro (US 3872435) discloses an opto-electrical security system.

#### **CONTACT INFORMATION**

Information regarding the status of an application may be

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obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 571-272-4100 or toll free at 1-866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at [ebc@uspto.gov](mailto:ebc@uspto.gov). The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (571) 272-2600. Facsimile submissions may be sent via central fax number 571-273-8300 to customer service for entry by technical support staff. Questions related to the operation of the facsimile system should be directed to the Electronic Business Center.

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number. Inquiries concerning only hours and location of the Customer Window may be directed to OIPE Customer Service at (571) 272-4000.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (571) 272-7308.

EH  
9/30/06

  
EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
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